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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

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RODERICK MITCHELL, :

Plaintiff, : **Docket No.:**

vs. :

B & JR SERVICE, LLC, PHANTOM VEHICLE :
OPERATOR 1-10 (fictitious names), RICHARD ROES 1- :
10 (fictitious names) and ABC COMPANIES, INC. 1-10 :
(fictitious names), :

Defendants. :
:

**NOTICE
OF REMOVAL**

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Defendant B & JR Service LLC (B & JR Service) states as follows for its notice of removal
from New Jersey Superior Court, Essex County.

Proceedings In The Action

1. On or about March 30, 2021, plaintiff Roderick Mitchell (Mitchell) filed a complaint in a
civil action for money damages for personal injuries arising from a motor vehicle accident, in the
Superior Court of New Jersey, Essex County, against B & JR Service and fictitious defendants under
docket no. ESX-L-2553-21 (the State Court Action). Complaint, Exhibit A.

2. B & JR Service filed an answer in state court, Exhibit B. No other pleadings, process or orders were served in the State Court Action.

Removal

3. At the commencement of the State Court Action and at the filing of this notice of removal, Mitchell was, and he remains, a citizen of New Jersey, residing at 283 Stegman Parkway, Apt. 105, Jersey City, New Jersey 07305.

4. At the commencement of the State Court Action and at the filing of defendant's notice of removal, B & JR Service was, and it remains, a Michigan limited liability company having its principal place of business at 17570 Crillon Dr., Clinton Twp., MI 48038. The sole member of B & JR Service is and has been, continuously, since 2009, when B & JR Service was formed, Bernard Sobierajski, a citizen of Michigan residing at 17570 Crillon Dr., Clinton Twp., MI 48038. B & JR Service is and at all relevant times has been a citizen of Michigan.

5. The citizenship of the parties is completely diverse, and no defendant is a citizen of New Jersey. The other defendants being fictitious their citizenship is disregarded for the purpose of ascertaining diversity and removability. 28 U.S.C. § 1441(b)(1).

6. The State Court Action was not removable when it was filed because, notwithstanding the complete diversity of the parties, the complaint did not state a demand for damages in excess of \$75,000. 28 U.S.C. § 1446(b)(3).

7. That the amount in controversy exceeded \$75,000 was not ascertainable until November 5, 2021, when Mitchell's counsel sent defense counsel an email, Exhibit C, supplying an operative report, Exhibit D, which showed that plaintiff underwent a cervical discectomy and fusion with implantation of hardware and allograft. Inasmuch as such procedures are almost invariably assessed

at more than \$75,000, the email constituted the first notice to B & JR Service that the amount in controversy exceeded \$75,000. This notice of removal is, accordingly, timely.

8. The State Court Action is removed to this Court. 28 U.S.C. § 1332(a); § 1441(a)-(b); § 1446(a)-(c).

LESTER SCHWAB KATZ & DWYER, LLP
Attorneys for Defendant B & JR Service, LLC.

S/ Jeffrey A. Payne

11/18/2021

Jeffrey Payne

Date